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Counsel for Plaintiff Davis

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

CHARLIE J. DAVIS, JR.,	)	
	)	
Plaintiff,	)	
vs.	)	Case No. A02-0214 CV (JKS)
	)	
ZELMER HYDEN, et al.,	)	
	)	
Defendants.	)	
_____	)	

**OBJECTION TO COST BILL**

Plaintiff Charlie Davis, through undersigned counsel, submits the following objections to Defendant's Cost Bill (Docket No. 105).

**I. GENERAL OBJECTION**

Plaintiff generally objects to the imposition of costs because it would be unfair under the circumstances. This action was not instituted in bad faith, was not deemed to be frivolous, and was not pursued in a vexatious manner. This is a civil rights action brought under 42 U.S.C. §1983 to address a former prisoner's grievance about inadequate medical care at Palmer Correctional Center. Summary Judgment was ultimately granted to the Defendants because Plaintiff was unable to supply expert

testimony (which he could not afford) to support his case.<sup>1</sup> At the outset of this case, the court noted that Plaintiff Charlie Davis was proceeding *IN FORMA PAUPERIS*, and could not afford the services of a lawyer.<sup>2</sup> He is Veteran, who survives on a meager Social Security payment, and other public assistance. Under the circumstances, it would inequitable and manifestly unfair to tax costs against Plaintiff Charlie Davis.<sup>3</sup>

## II. SPECIFIC OBJECTIONS

Plaintiff specifically objects to Defendants' Bill of Costs on the following grounds. First, Defendants' request for \$83.10 for fees for exemplification and copies of papers is not supported by documentation. Second, Defendants request for deposition charges in the amount of \$1,890.85 is inconsistent with Local Rule 54.1. Under Rule 54.1(e)(3), the reporter's charge for a deposition used is taxable. However, fees for the transcript are not.<sup>4</sup> The exhibits submitted with Defendants' cost bill show the only reporter charge included within the entire amount requested is \$350.<sup>5</sup> The balance of the charges for "depositions" are in reality for counsel's copy of the transcripts, exhibits, and handling fees. These items are not taxable under Local Rule 54.1(f).

## III. CONCLUSION

Plaintiff objects to all of Defendants' cost bill because an award of costs in this matter would be manifestly unfair. Even if the court were to allow costs in this matter

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<sup>1</sup> See Order, Docket No. 103.

<sup>2</sup> See Docket Nos. 1 and 3; 28 USC §1915.

<sup>3</sup> See *United States v. Bexar County*, 89 FRD 391, 394 (W. D. Texas 1981).

<sup>4</sup> See Local Rule 54.1(f)(2).

<sup>5</sup> See Exhibit A at p. 1 (Docket No. 106).

against Plaintiff, the vast majority of Defendants' requested costs are not properly taxable under Local Rule 54.1.

DATED this 28<sup>th</sup> day of November 2006, at Anchorage, Alaska.

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CERTIFICATE OF SERVICE

I certify that on 28<sup>th</sup> day of November 2006  
a copy of the foregoing document was  
served by electronic mailing to:

Marilyn J. Kamm, Esq.  
Assistant Attorney General  
State of Alaska, Dept. of Law  
Criminal Division Central Office  
P.O. Box 110300  
Juneau, AK 99811

s/Thomas A. Matthews